

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 5496

Board investigation into electric distribution line)
extension policies for the purpose of developing Board)
rules related to line extensions)

Order entered: 6/15/2005

REPORT AND RECOMMENDATION

I. INTRODUCTION

On September 21, 1999, the Vermont Public Service Board ("Board") opened a third phase of investigation in this Docket. The purpose of this phase was to examine all remaining unresolved issues. The primary unresolved issue at this date concerns the land use and policy implications of line extensions.

In this Report I recommend that, in the rule that will follow this docket, the Board not adopt any policy that would significantly change existing policies but instead require that certain procedural requirements be met with respect to new line extensions. I further recommend that this Docket be closed and a rulemaking be initiated to implement the decisions issued by the Board in this Docket.

II. PROCEDURAL HISTORY

On February 10, 2000, a technical workshop was held to address the issues of "Payment for Line Extensions" and "Alternative Energy Systems" and a scoping session was conducted to discuss "Public Policy Implications of the Placement of Line Extensions" and "Service from Adjacent Utilities." On March 3, 2001, the Hearing Officers in the Docket issued a Technical Workshop and Scoping Session Report and Order. The 2001 Order sets forth the Hearing Officers' recommendations regarding the payment of line extensions, alternative energy systems, and service from adjacent utilities. The 2001 Order also recommends that the Vermont

Department of Public Service ("Department") begin preparation of a report to address the land use and policy implications of the placement of line extensions that it had proposed during the February 10, 2000, workshop and scoping session.

On February 3, 2003, the Department filed that report, entitled Utility Line Location Issues Paper - Summary Report ("Report"), with the Board. Parties were invited to file comments on the Report and two workshops were held to address the report.

III. PROCEDURAL MOTIONS

On April 1, 2005, Linda M. Ricci, Esq., filed a Notice of Appearance on behalf of Verizon New England Inc., d/b/a Verizon Vermont ("Verizon") and Substitution of Counsel, and a motion to waive Board Rule 2.201(c) to allow Ms. Ricci to serve as counsel of record for this Docket. On April 1, 2005, Victoria J. Brown, Esq., filed a notice of appearance on behalf of Vermont Electric Cooperative, Inc. ("VEC") and a notice of withdrawal on behalf of Citizens Communications Company ("Citizens"). On April 4, 2005, Michael L. Burak, Esq., filed a motion to withdraw as counsel for VEC. No responses were received to Verizon's or Mr. Burak's motions. I grant Verizon's motion to waive Board Rule 2.201(c) and Mr. Burak's motion to withdraw as counsel for VEC.

IV. POLICY OPTIONS CONSIDERED

The Report outlines several policy options, discussed in detail below. The policies are presented in three categories. The first, global policies, refer to those proposed policies that should guide all line extensions, regardless of individual site characteristics. The global policies considered are:

- No change to existing policies;
- Require on-road line extensions;
- Line extensions must take the shortest feasible route;
- Existing routes should be used; and
- Limit new radial extensions to specific distance from main lines.

The second set of policies, site specific options, would require analysis of individual site conditions, but similar site conditions would lead to similar design of the line extension. The site specific options proposed are:

- A context-sensitive design framework should determine line extension form;
- Define a policy to require undergrounding of utilities in certain situations; and
- Define a policy for impact analysis of line extensions.

Finally, the Report presented procedural options that would alter the method of regulating line extensions. These include:

- Define a policy to require analysis of alternative energy systems;
- Refine the review under Act 250;
- Development of a statewide line extension ombudsman; and
- Development of a common statewide design standard.

V. COMMENTS OF THE PARTIES

Responses to the Report were filed by the Department, Central Vermont Public Service Corporation ("CVPS"), the Fourteen Municipal Utilities,¹ City of Burlington Electric Department, Green Mountain Power Corporation, Citizens Communications Company, Verizon Vermont, and Nine Independent Telephone Companies.²

All of the comments received recommended that the Board not adopt the global, site-specific, or procedural options raised in the Report. Many of the responses stated that construction and maintenance of line extensions was not amenable to a broad rule.

1. The Fourteen Municipal Utilities include: Barton Village Inc. Electric Department; Village of Enosburg Falls Water & Light Department; Town of Hardwick Electric Department; Village of Hyde Park Electric Department; Village of Jacksonville Electric Department; Village of Johnson Water & Light Department; Village of Ludlow Electric Light Department; Village of Lyndonville Electric Department; Village of Morrisville Water & Light Department; Village of Northfield Electric Department; Village of Orleans Electric Department; Town of Readsboro Electric Light Department; Town of Stowe Electric Department; and Swanton Village Inc. Electric Department.

2. The Independent Telephone Companies include: STE/NE Acquisition Corp., d/b/a Northland Telephone Company of Vermont, d/b/a FairPoint New England; Franklin Telephone Company; Ludlow Telephone Company; Northfield Telephone Company; Perkinsville Telephone Company; Shoreham Telephone Company, Inc.; Topsham Telephone Company, Inc.; Vermont Telephone Company, Inc., d/b/a Vtel; and Waitsfield-Fayston Telephone Company, Inc., d/b/a Waitsfield Telecom and d/b/a Champlain Valley Telecom.

The primary arguments put forth by respondents was that the imposition of the policies outlined in the Report would "impose costs that are disproportionate to the incremental benefits of the regulation."³ Such comments pointed out that line extensions are only one minor factor in the spread of development.

VI. DEPARTMENT'S PROPOSAL

On May 15, 2003, the Department filed a proposal to address Phase III of this Docket.⁴ The Department recommends specific language for a proposed rule that would delineate the issues that should be considered in determining the appropriate design and siting of line extensions, and specific language requiring utilities to provide certain information to customers requesting a line extension. This proposed language is set forth below:

- (1) In determining the appropriate design and siting (e.g., whether roadside or off-road and overhead or underground) of electric distribution line extensions and relocations of line extensions, electric utilities shall consider: maintenance and reliability; worker and public safety; aesthetics; cost; customer, landowner and municipal preference; and environmental and land use implications.
- (2) When a customer requests an electric line extension, the utility shall inform the customer in writing of customer and company rights, responsibilities and options for line extensions, including but not limited to: payment terms; easement and right-of-way information; contribution-in-aid-of-construction; basic information about design, siting and location, such as overhead or underground, and road-side or off-road; and how to contact the Department of Public Service Consumer Affairs Division by toll-free phone or in writing in the event of a dispute.

VII. DISCUSSION

The policies articulated by the Report do not seem to be a practical solution to address the issue of sprawl, as the utilities and the Department point out. Each line extension request should be addressed on a case-by-case basis, and global policies, such as requiring that all new

3. Comments of the Fourteen Municipal Utilities.

4. The Department's letter indicates that its proposal had been circulated to the other parties in this Docket and that no party indicated any objection to the proposal. Further, the letter asserts that several utilities indicated support for the Department's proposal.

extensions be underground or along roadsides, do not provide sufficient flexibility for the utility or the customer.

The Department's recommendations provide a reasonable compromise between adopting global policies and failing to adopt any policies. The proposal sets forth certain criteria that provide a semi-structured methodology of responding to line extension requests. Accordingly, I recommend that the Board adopt the Department's proposal with one change, as discussed below.

The Department's proposal does not address the need to provide customers information concerning off-grid options. While I do not find that the Report's proposed policy of requiring an analysis of alternative energy systems is advisable, customers should be informed that off-grid options are available. Therefore, I recommend that the Board include in a subsequent rule that utilities are obligated to provide information regarding off-grid options to customers that request line extensions.

VIII. CONCLUSION

For the reasons discussed above, I conclude that the Department's proposal, with the change noted above, provides a reasonable approach to address the issues of designing and siting line extensions. I recommend that the Board close this Docket and initiate a rulemaking to address the issues raised throughout the three phases of this Docket.

I hereby report the foregoing Report and Recommendation to the Board, pursuant to 30 V.S.A. § 8.

This Proposal for Decision has been served on all parties to this proceeding in accordance with 3 V.S.A. § 811.

Dated at Montpelier, Vermont, this 31st day of May, 2005.

s/Ed McNamara
Edward McNamara, Esq.
Hearing Officer

IX. BOARD DISCUSSION

On May 31, 2005, the Department filed comments on the proposal for decision. No other comments were received. The Department correctly points out that the proposal for decision, while purporting to address all remaining issues raised in the third phase of this Docket, does not address the disposition of the Hearing Officers' March 23, 2001, Report and Recommendation.

This Docket was opened to formulate a proposed rule for line extensions. The reports and recommendations of the Hearing Officers in this third phase will be used as a starting point for a draft rule. The current Hearing Officer recommends that utilities provide information to customers concerning off-grid options. The Board does not rule on this recommendation at this time, but rather will make a determination on this issue as part of the rulemaking process. Given the duration of this Docket – approximately fourteen years – the Board will circulate a comprehensive draft rule for comment to all parties prior to starting the formal rulemaking process. This will provide an appropriate opportunity for comment on the various recommendations that have been developed over the years in this Docket. Any party may also provide comment on the issues that have been raised during this Docket prior to the issuance of the comprehensive draft rule. Such comments should be filed by July 11, 2005.

X. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The Report and Recommendation of the Hearing Officer is adopted.
2. This Docket shall be closed.
3. A rulemaking to address the issues explored in this Docket shall be initiated.

Dated at Montpelier, Vermont, this 15th day of June, 2005.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: June 15, 2005

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.